

AGENDA ITEM 2: Discuss proposed draft final report on Delta Flood Risk Management Assessment District Feasibility Study and consider recommendations to Delta Protection Commission

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Requested Action: Consider draft final report and recommendations to Delta Protection Commission

Background

The Delta Flood Risk Management Assessment District Feasibility Study (DFRMADFS, also referred to as the Study or the levee financing feasibility study) originated in the long-standing policy discussion about how to pay for Delta levees. The Department of Water Resources, which funded the Study, has expressed interest in a beneficiary-pays system for Delta levee improvement and maintenance. The CALFED Record of Decision (August 2000) called for a benefits-based cost allocation for CALFED programs, as reflected in the CALFED Finance Plan (2005). In addition, the Delta Stewardship Council’s Delta Plan (2013) recommended that “the Legislature should create a flood risk management assessment district ... to provide adequate flood control protection and emergency response for the regional benefit of all beneficiaries, including landowners, infrastructure owners, and other entities that benefit from the maintenance and improvement of Delta levees, such as water users who rely on the levees to protect water quality.” (Delta Plan Chapter 7, Recommendation RR R2).

The Commission has worked since 2015 on this effort with a consultant team led by M.Cubed. In 2017, the Commission’s subcommittee on this project (Chair Thomson and Commissioners White, van Loben Sels and Ferrara/Tjernell) met on three occasions (February 16, 2017; April 17, 2017; June 15, 2017) to hear comments on the draft report (December 1, 2016 version and April 17, 2017 version).

Since the June 15, 2017 subcommittee meeting, a group of Delta levee stakeholders (Delta levee engineers, attorneys and flood control experts) met and considered specific edits to the December 1, 2016 version of the report. These edits were reviewed and (largely) incorporated into the December 29, 2017 version of the draft final report that is now presented to the subcommittee. This report is condensed from the previous version, with some sections deleted entirely because they did not advance the primary message of the consultant’s analysis: that although a Delta-wide assessment district is likely infeasible, there are feasible finance mechanisms that could be deployed to generate revenues to supplement the funding raised by assessments of the local maintaining agencies and the funding provided by the State through appropriation of general fund and general obligation bond revenues by the Legislature.

The report is largely organized around a set of key findings, presented in the Executive Summary of the report.

Once approved by the full Commission, the final report of the consultant will be transmitted to Department of Water Resources in fulfillment of the interagency agreement between DWR and the Commission. It is recommended that the Commission attach, whether by insertion into the final report or by attachment through a transmittal document, the following statement, which includes a recommendation for specific funding of the DWR levee programs to reach a system-wide improvement of all Delta levees to a DWR Bulletin 192-82 standard, a recommendation for additional general obligation bond funding to finance the State's share of levee programs, and a recommendation for further discussion among affected stakeholders regarding the funding mechanisms proposed in the study .

Delta Protection Commission – Recommendation to Accompany Transmittal of Report to DWR

Existing reclamation district property assessments and State budget appropriations should continue to be the financing mechanisms used to collect revenues from Delta landowners and the State for levee operation, maintenance and improvement. Any additional mechanism(s) for funding Delta levee work should supplement, not replace, the amounts provided by existing State and local financing mechanisms.

The State General Fund and general obligation bonds should continue to be the source of funding for the public benefits derived from the maintenance and improvement of Delta levees. The Legislature should commit to appropriating a consistent amount, at least \$72 million annually, to achieve and maintain a minimum levee standard (DWR Bulletin 192-82) throughout the Delta. Subsequent to attaining a minimum levee standard throughout the Delta, funding for Delta Special Projects should be scaled back and Subventions program funding continued. Further levee improvements above a Bulletin 192-82 standard should be the responsibility of beneficiaries that require a higher level of flood protection.

State funding for Delta levees should include:

\$12-\$15 million annually for the Delta Levees Maintenance Subvention program

\$30-\$60 million annually for the Delta Special Projects program dedicated to improving all Delta levees (other than the eight western Delta islands) to a base level of protection (DWR

Bulletin 192-82 standard with a 22-foot crown). Until this standard is achieved, habitat mitigation consistent with Delta Levees Programs requirements should continue, but the funding of habitat enhancement or endangered species act mitigation required for continued operation of the State Water Project and Central Valley Project shall be limited to no more than 5% of funds provided for levee maintenance/improvement projects.

\$30 million annually for the Delta Special Projects program dedicated to improving the eight western islands and other levees determined by DWR to merit a higher standard that is more resilient to seismic risk.

Consistent with the levee financing recommendations in the 2017 update of the Central Valley Flood Protection Plan, additional flood protection bond fund measures to provide the State’s cost-share should be promoted and supported.

The State Legislature and Congress should eliminate all existing statutory exemptions from assessments, unless it can be shown that such parcels do not receive any benefits from the network of Delta levees. The State could also request that federal property owners voluntarily contribute funding to pay for the benefits they receive from Delta levees.

The conceptual financing mechanisms analyzed in this Study face potential political opposition based on concerns expressed by farming, water exporter, and flood protection agency stakeholders. Further discussion among affected stakeholders is necessary to advance consideration of these mechanisms. It should be noted a stakeholder process is identified to develop levee financing mechanisms pursuant to recommendations in the 2017 update of the Central Valley Flood Protection Plan. The Delta Protection Commission should participate in this effort to ensure that the unique Delta values are represented in the discussion.

SUBCOMMITTEE RECOMMENDATION

Commission staff recommend that the subcommittee recommend to the full Commission: (1) approval of the final draft report, and; (2) approval of the Commission transmittal statement to DWR.